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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JOHN TEIXEIRA, STEVE
NOBRIGA, GARY GAMAZA,
CALGUNS FOUNDATION (CGF),
INC., SECOND AMENDMENT
FOUNDATION (SAF), INC., and
CALIFORNIA ASSOCIATION OF
FEDERAL FIREARMS LICENSEES,
INC. (Cal-FFL),

Plaintiffs,

vs.

COUNTY OF ALAMEDA, ALAMEDA
BOARD OF SUPERVISORS (as a
policy making body), WILMA CHAN
in her official capacity, NATE MILEY
in his official capacity, and KEITH
CARSON in his official capacity.

Defendants.

CASE NO.: 3:12-CV-03288 SI

DECLARATION OF BRANDON
COMBS for PLAINTIFF: CALIFORNIA
ASSOCIATION OF FEDERAL
FIREARMS LICENSEES, INC.

1 I, BRANDON COMBS, declare as follows:

2 1. I am the president of CALIFORNIA ASSOCIATION OF FEDERAL
3 FIREARMS LICENSEES, INC.

4 2. The CALIFORNIA ASSOCIATION OF FEDERAL FIREARMS LICENSEES,
5 INC., (Cal-FFL) is a non-profit industry association of, by, and for firearms
6 manufacturers, dealers, collectors, training professionals, shooting ranges,
7 and non-industry affiliates.

8 3. Our purpose is advancing the interests of our members and the general
9 public through strategic litigation, legislative efforts, and education.

10 4. Cal-FFL expends financial and other resources in both litigation and non-
11 litigation projects to protect the interests of their members and the public-at-
12 large. Cal-FFL brings this action on behalf of itself and its members.

13 5. The genesis of our association, and a significant part of our continuing
14 operational philosophy, is defined by our efforts to counteract the efforts of
15 local governments and various other organizations who seek to chill and
16 otherwise obstruct the "right to keep and bear arms" of law-abiding gun
17 owners and the merchants who serve them.

18 6. While the firearms industry is heavily regulated by both federal and state
19 laws, local (city and county) governments represent a significant threat to the
20 rights of our members through their unconstitutional, often pre-textual, use
21 of public safety legislation and discriminatory land use regulations.

22 7. The Firearm Dealers our organization represents have no objection to
23 meeting the usual zoning requirements and land use regulations for
24 properties that facilitate other constitutional rights like book stores and
25 churches (e.g., addressing traffic congestion, adequate sanitation, sufficient
26 parking, and accommodations for wheel chair accessibility).

27 8. Nor would our members object to firearm-specific regulations like: building
28 security (both physical and electronic), Cal-OSHA and industry standard

1 rules for the storage of flammables, business hours consistent with the
 2 surrounding business community, and maintenance of all state and federal
 3 licenses to deal firearms.

4 9. However, the “500 foot rule” is not rationally related to any possible public
 5 safety concerns a retail gun store might raise, especially when that gun store
 6 is otherwise in compliance with all federal, state and local laws relating to
 7 firearm sales. The “500 foot rule” appears to be exclusively designed to limit
 8 gun stores by red-lining them out of existence and thus establishing a
 9 practice that is practically impossible to satisfy in metropolitan areas.

10 10. This pretext of land use regulations is not unlike the pattern and practice of
 11 local governments using these same regulations to restrict retail
 12 establishments selling adult-oriented material as described in a line of U.S.
 13 Supreme Court Cases that began with: *Young v. American Mini Theatres,*
 14 *Inc.*, 427 U.S. 50 (1976); and *Schad v. Borough of Mount Ephraim*, 452 U.S.
 15 61 (1981), and continuing through with the cases: *City of Renton v. Playtime*
 16 *Theatres, Inc.*, 475 U.S. 41 (1986); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560
 17 (1991). These latter cases developed what has come to be known as the
 18 *secondary effects* doctrine.

19 11. There is no justification for red-lining gun stores. Unlike adult bookstores,
 20 adult live-entertainment establishments and liquor stores, the employees and
 21 patrons of gun stores are – by definition and force of law – law-abiding
 22 citizens. No one can work in a gun store, buy a gun (or ammunition), possess
 23 a gun (or ammunition), or transport a gun (or ammunition) if they are:

- 24 a. A convicted felon,
- 25 b. A misdemeanor convicted of various enumerated crimes of violence,
- 26 including domestic violence,
- 27 c. A person subject to terms of probation that prohibit the possession of
- 28 weapons,

- d. A person subject to a restraining order,
- e. A person found to be a danger to themselves or others due to mental illness,
- f. A person addicted to narcotics,
- g. A person under indictment in any court for a crime punishable by imprisonment for a term exceeding one year,
- h. A person who has been discharged from the military under dishonorable conditions,
- i. A person who is a fugitive from justice

Attached as **Exhibit A** is the full list of prohibited categories from the California Department of Justice website.¹

12. Furthermore, I am not aware that the County has even conducted (or cited) any *secondary effects* study to back up their claim that the “500 foot rule” serves any compelling, let alone any important, government interest.

I declare under penalty of perjury, under the laws of California and the United States, that the forgoing is true and correct and that this declaration was executed in California on November 5, 2012.

/s/ Brandon Combs

Brandon Combs for Plaintiff
California Association of Federal Firearm Licensees, Inc.

ATTESTATION FOR COMPLIANCE WITH LOCAL RULE 5.1

I, Donald Kilmer, declare under penalty of perjury under the laws of California and the United States that I have in my possession e-mail correspondence from BRANDON COMBS that the content of this document is acceptable to all persons required to sign the document. I declare that this document was signed in San Jose, CA on November 5, 2012.

/s/

Donald Kilmer, Attorney for Plaintiffs

¹ <http://oag.ca.gov/sites/all/files/pdfs/firearms/forms/prohibcatmisd.pdf>? Date accessed: November 5, 2012